

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

OCT 17 00

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

David A. Morgan
3544 Normandy Drive
Oakland Township, MI 48306

Enforcement Case No. 06-4812

Respondent

_____ /

Issued and entered,
on 10-30-06
by Frances K. Wallace
Chief Deputy Commissioner

CONSENT ORDER

I.

BACKGROUND

First Legacy Financial, LLC ("First Legacy Financial") is a Michigan domestic limited liability company, organized under the laws of the state of Michigan, that has made applications for licensure as a mortgage broker under the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), Act No. 173 of 1987, as amended, MCL 445.1651 *et seq.*, and a registration under the Secondary Mortgage Loan Act, Act No. 125 of 1981, as amended, MCL 493.51 *et seq.* David A. Morgan (Respondent) is the sole member of First Legacy Financial. Respondent is not licensed or registered by the Office of Financial and Insurance Services ("OFIS") pursuant to the MBLSLA, or any other consumer finance statute regulated by OFIS. In reviewing First Legacy Financial's application, OFIS staff determined that Respondent was conducting mortgage related activities, which require licensure as a

mortgage broker under the MBLSLA. Respondent and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

II.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. In an attached document to the Personal Disclosure Statement, which accompanied the mortgage broker applications submitted to OFIS by First Legacy Financial, LLC on or about February 1, 2006, Respondent indicated that from January 2005 to May 2005 a licensee, Dynamic Mortgage, Inc. (Dynamic Mortgage), employed him as a loan officer. During Respondent's alleged employment with Dynamic Mortgage, Respondent originated loans for Dynamic Mortgage. Although Respondent contends that he was an employee of Dynamic Mortgage, Respondent admits to staff that he was not an employee of Dynamic Mortgage, and that he received nonemployee compensation from Dynamic Mortgage under his assumed name, DM Processing, for originating mortgage loans.

2. Pursuant to a letter from OFIS staff dated February 22, 2006, requesting additional information concerning the First Legacy Financial, LLC applications; Respondent provided staff with a Form 1099 for the year 2005. According to the Form 1099, Respondent received remuneration in the amount of \$30,880 from Dynamic Mortgage under his assumed name DM Processing in the year 2005. Dynamic Mortgage paid Respondent \$30,880 for the loans he originated. Respondent was neither employed by Dynamic Mortgage nor licensed or registered by OFIS at the time he originated loans on behalf of Dynamic Mortgage. Section 2 of the MBLSLA proscribes Respondent from receiving compensation from Dynamic Mortgage unless he is solely performing services as an employee of Dynamic Mortgage, or meets any of the exceptions enumerated therein. Respondent does not meet any of exceptions specified in Section

2 of the MBLSLA and, consequently, Respondent's receipt of nonemployee compensation for originating mortgage loans is a violation of the MBLSLA.

3. Section 2(1) of the MBLSLA prohibits a person from acting as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registration.

4. Section 2(3) of the MBLSLA prohibits a residential mortgage loan originator (also known as a loan officer) from receiving directly or indirectly any compensation, commission, fee, points or other remuneration from a mortgage broker, mortgage lender, or mortgage servicer other than his/her employer.

5. Based on the forgoing, Respondent has conducted first lien mortgage business without the requisite license or registration certificate required under Section 2(1) of the MBLSLA.

III.

ORDER

Therefore it is ORDERED that:

1. Respondent shall cease and desist violating Sections 2(1) and 2(3) of the MBLSLA.
2. Respondent shall pay to OFIS an applicable civil penalty of \$500.00.
3. Respondent, as the sole member of First Legacy Financial, LLC, shall establish and maintain a program to monitor and ensure compliance with all state and federal consumer laws and regulations relating to all mortgage activity.
4. Respondent, as the sole member of First Legacy Financial, LLC, shall educate himself and all employees of First Legacy Financial, LLC with respect to all state and federal

consumer laws and regulations, including the Mortgage Brokers, Lenders, and Servicers Licensing Act.

5. Respondent shall review and ensure that First Legacy Financial, LLC complies with the OFIS Consumer Finance Bulletin No. 2003-09-CF, posted on the OFIS website, which clarifies OFIS' position on employees and branch offices in Michigan.

6. Respondent, as the sole member of First Legacy Financial, LLC, shall immediately designate a compliance officer for First Legacy Financial, LLC and provide written notification to OFIS of the compliance officer's name and business address, to ensure that First Legacy Financial, LLC is in compliance with all applicable state and federal laws. Respondent's written notice designating a compliance officer shall accompany his payment of a civil penalty as provided for in Paragraph 2 of this Order. Respondent, as the sole member of First Legacy Financial, LLC, shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

The Chief Deputy Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further Order(s) as she shall deem just, necessary, and appropriate in accordance with the provisions of the MBLSLA. Failure by David A. Morgan and First Legacy Financial, LLC to abide by the terms and provisions of this Order may result in the commencement of additional proceedings.



Frances K. Wallace
Chief Deputy Commissioner